1941. **File No.** B. Prev. of Gambling /41

Legal **DEPARTMENT**

B. **BRANCH**

Subject:—

Bill No 11 of 1941

A Bill to amend the Bombay Prevention of Gambling Act, 1887

(Amendt. of ss. 3 & 4)

P23

File No. B. Prevention of Gambling/41
(Amendt of ss 3 & 4)

Std. Sectt. Slip 24 B e.

502-B

C O N T E N T S.

Legal Department File No. B. Prov. of Gambling / 41

Cr.No.	Compilati n No.	Subject	pages
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2.	U.R. to H.D.No. 9824 dt. 28th Oct. 1940	Obtaing Govt. orders for enacting legislation..	3-4
3.	U.R. to H.D. No. 1110/at. 18th Dec. 1940	forwarding draft bill	5-8
4.	G.O.L.D.No.1341 dt. 12th Feb. 1941.	Assent ad to the bill etc.	9-12
5.	U.R. .D.No. 1753 dt. 25th Feb. 1941.	Publi ati n of the Act.	13-20
6.	U.O. to H.D.No. 1926 dt. 6th March 1941.	Appln of the act to excluded areas.	21-24

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26-4

ABM 23/5

SMD 23/5

Office of the R.L.A.

The High Court has held that the words "using such house" in the definition of the term "common gaming house" in section 3 of the Bombay Prevention of Gambling Act, 1887, meant "using such house under some sort of title or right" and also that the words "having the use of any house" in section 4(a) of the Act bore a similar meaning. The effect of these decisions was that in case of a place used for gaming purposes by a person who has no right whatsoever over it or for possession or use of it, the place would not fall under the definition of the term "common gaminghouse" as defined in the Act and there could be no conviction under section 4(a) of the Act. The proposal is to amend the Act so as to cover up this loophole in the Act.

2. There is no doubt that it is necessary to undertake legislation to achieve the object ommissioner of Police has in view. It would be necessary to amend the Bombay Provention of Gambling Act, 1887, for this purpose. The legislation would fall under entry 36 of the Provincial Legislative List and the rovincial Government is competent to legislate for the purpose. There is no objection from the legal point of view o effect the amendments by a Governor's Act under the present circumstances if Home Depaftment condiders it desirable to do so rom the administrative point of view. It will be necessary, however, to consider carefully the nature and the extent of the amendments to be carried out to achieve the object in view. The ommissionerof Police in his letter at pages 1-2 ante has not made any definite proposals in this behalf. The Home Department note suggests that the amendments should be carried out in sections 3 and 4 but the nature of the amendmentw propbsed to be made has not been discussed or made clear. If therefore, it is intended that the proposed ligislation should be undertaken under the present circumstances, it is necessary that the question as to the nature and extent of the amendment proposed to be made should be first examined by Home Department, from the administrative point view, if necessary in consultation with the Commissionerof Police.

RLA

S.A.K. 26-4

O.C. U.R. to H.D.No. 5870, Sd/- dated the 27th June 1940. 27-6

Office of the R.L.A.

Before the Bill is drafted, the Home Department is requested to obtain the orders of Government for enacting the proposed legislation as a Governor's Act. Attention of the Home Department is invited to instructions 24 and 25 of the instructions issued under the Rules of Business and paragraph 2(1)(p) of the Secretary to Governor's Circular No. 12/1, dated the 10th May 1937.

O.C. Sd/-

25-10

Remembrancer of Legal Affairs.

U.R. to the H.D., No. 9524, dated the 26th October 1940.

U.A.B.
25-4

Office of the R.L.A.

The necessary draft Bill is appended.

2. The subject matter of the Bill falls under entries 36 and 37 of the Provincial Legislative List. The Bill requires the previous approval of the Governor General before its enactment, under executive instructions. As it does not relate to any entry in the Concurrent Legislative List, it does not require to be reserved for consideration of the Governor General with reference to section 107(2) of the Government of India Act., 1935.

O.C. Sd/-
17-12

Remembrancer of Legal Affairs.

U.R. to H.D., No. 11101 dated the 18th December 1940.

S.A.K.
26-4

No. 1341

Legal Department.

Bombay Castle, 12th February 1941.

From

P.N.Moos, Esquire, I.C.S.,

Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Prevention of Gambling Act, 1887.

Sir,

With reference to your memorandum No. 201(25), dated the 3rd February 1941, addressed to the Home Department, on the above subject, I am directed to forward herewith for the assent of His Excellency the Governor, a copy of the Bill to amend the Bombay Prevention of Gambling Act, 1887, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935 or falls within the purview of clause (a), (b)? (c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject matter of the Bill falls under entries Nos. 36 and 37 in the Provincial Legislative List in the Seventh Schedule to the Government ofIndia Act, 1935. None of the provisionsof the Bill relates to any matter enumerated in the Concurrent Legislative List. It is not, therefore, necessaryto reserve the Bill for consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

4. The date on which His Excellency the Governor's assent is given may kindly be entered thereon in the endorsement.

5- I am also to forward herewith one spare copy of the Bill.

I have the honour to be,
Sir,
Your most obedient servant, O.C. R.

O.C. P.N.M.

Secretary to the Government of Bombay,
Legal Department.

Through the Secretary to the Government
of Bombay, Home Department.

S.A.K.
26.4

No. 201 (25)

Office of the Governor's Secretary,
Government House ,
Bombay , 21st February 1941.

From

J.B.Irwin, Esquire, D.O.MC.ICS.
Secretary to the Governor of Bombay.

To

The Secretary to Government,
Legal Department, Bombay.

Subject:- A Bill to amend the Bombay Prevention of Gambling Act, 1887

Sir,

With reference toyourletter No. 1341, dated the 12th February 1941, forwarding a co y of a Bill to amend the Bombay Prevention of Gambling Act, 1887, prepared by His Excellency the Governor under paragraph (2) of the roclamation dated 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, I am directed to state that under the provisions of the aforesaid paragraph , His Excellency the Governor is pleased to declare that he assents t the Bill in the name of His Majesty.

2. The copy of the Bill is returned herewith with His Excellency the Governor's assent signified thereon.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/-

Secretary to the Governor of Bombay.

Sd/-

31-10

S.A.K.
26-4

Acts_.

Publication of the Bombay Prevention of Gambling (Amendment) Act, 1941.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 1753
Bombay Castle, 25th February 1941.

Letter to the Secretary to the Governor No. 1341 dated the 12th February 1941.

Letter from the Secretary to the Governor, No. 201(25), dated the 21st February 1941.

"With reference to your letter No. 1341, dated the 12th February 1941, forwarding a copy of a Bill to amend the Bombay Prevention of Gambling Act, 1887, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated 4th November 1939 issued by him under section 93 of the Govt. of India Act 1935, I am directed to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

2. The copy of the Bill is returned herewith with His Excellency the Governor's assent signified thereon.

RESOLUTION :- The law should be published as Bombay Act No. II of 1941, in the Bombay Government Gazette, dated the 27th February 1941

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the P & S Department with reference to the Memorandum from that Department dated the 6th February 1941.

By order of the Governor of Bombay,

Sd/-
For(P.N.Moos,
(Secretary to Government.

To

The Manager, Government Central Press, Bombay, (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department).
The Home Department.
*The Oriental Translator to Government.) With a
The Secretary to the Bombay Legislative) copy of
Council .)
The Secretary to the Bombay Legislative)
Assembly.)
)

*with five extra copies.

Sd/-
27-2

S.A.I.
26-4

Legal Department.

A draft notification for applying the Bombay Prevention of Gambling (Amendment) Act, 1941, (Bom. II of 1941) under section 92(1) of the Government of India Act, 1935, to the partially excluded areas in this Province is sent herewith. The Act can be applied by the notification only to those partially excluded areas to which the original Act, viz. the Bombay Prevention of Gambling Act, 1887 , has been extended under paragraph 2 of section 1 of that Act,

O.C. Sd/-

For Secretary to Government,
Legal Department.

U.R. to H.D., No. 1926, dated the 5th March 1941.

S.A.K

26-4

Notification.

Home Department.

Bombay Castle, 1941.

No. :- In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Preventionof Gambling (Amendment) Act, 1941, (Bombay II of 1941), shall apply to the

Here fill in the area in the Province of Bombay.

By order of the Governor of Bombay,

Secretary to Government.

S.A.K.
26-4